



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 19, 1993

Mr. Richard D. Monroe  
Associate General Counsel  
Texas Department of Transportation  
125 East 11th Street  
Austin, Texas 78701-2483

OR93-139

Dear Mr. Monroe:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 18367.

The Texas Department of Transportation (the "department") received an open records request for certain information pertaining to a particular automobile license plate that is registered under an alias for a law enforcement agency pursuant to V.T.C.S. article 6675a-3aa. Subsection (F) of article 6675a-3aa provides:

On receipt of a written request approved by the executive administrator of a law enforcement agency, the [Texas] Department [of Transportation] may issue exempt license plates for a vehicle and register the vehicle under an alias for the law enforcement agency's use in covert criminal investigations.

Specifically, the requestor seeks a copy of a completed form entitled "Affidavit and Application for Registration and Certificate of Title Issued under an Alias for Use on Law Enforcement Vehicles" for a particular license plate that the requestor believes to have been assigned to an automobile registered under an alias for the federal General Services Administration ("GSA").<sup>1</sup> You have submitted to this office for review an executed form that is "arguably responsive" to the open records request.<sup>2</sup> You contend the department may withhold the requested record pursuant to section 3(a)(8) of the Open Records Act.

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<sup>1</sup>The GSA is the federal agency through which federal vehicles are managed and assigned.

<sup>2</sup>You have also submitted to this office a copy of the following documents: "Application for Texas Certificate of Title," "Certificate of Origin for a Vehicle," and a "Letter of Authorization" with supporting memoranda. Because these records have not been specifically requested, you have not argued that they are excepted from public disclosure under the act. Consequently, we need not discuss whether these records constitute public information.

Section 3(a)(8) protects from required public disclosure

records of *law enforcement agencies and prosecutors* that deal with the detection, investigation, and prosecution of crime and the internal records and notations of such law enforcement agencies and prosecutors which are maintained for internal use in matters relating to law enforcement and prosecution. [Emphasis added.]

Whether this exception applies to particular records depends on whether their release would "unduly interfere" with law enforcement or prosecution. Open Records Decision Nos. 434 (1986); 287 (1981).

As the requestor correctly points out, neither the department nor the GSA is a "law enforcement agency" for purposes of section 3(a)(8). However, this office has previously held that where an incident involving allegedly criminal conduct is still under active investigation, section 3(a)(8) may be invoked by any proper custodian of information relevant to the incident. See Open Records Decision No. 372 (1983) at 4. You contend that the record at issue should be withheld pursuant to section 3(a)(8) because "the purpose of issuing plates under an alias pursuant to Art. 6675a-3aa would be subverted if anyone could ask for and receive, under the Texas Open Records Act, the completed form" submitted by the GSA on behalf of a federal law enforcement agency. This office agrees that the release of any information that identifies specific automobile license plates as being registered under an alias for "covert criminal investigations" would normally unduly interfere with law enforcement and thus bring that information within the protection of section 3(a)(8).

In this particular instance, however, the requestor contends that the federal law enforcement agency for whom the GSA has obtained the alias registration has waived its law enforcement interest in maintaining the confidentiality of the registration secret. In a letter to United States Representative Martin Frost, who had made inquiries on behalf of the requestor, the regional director of the United States Office of Personnel Management<sup>3</sup> ("OPM") confirmed that the OPM utilizes automobiles for which the GSA has obtained registration under the alias of "Frank T. Worth," which, the requestor has learned, is the same name under which the automobile in question is registered. Although this office construes this admission by the regional director of the OPM as a public disclosure of the identity of an alias used by the GSA, it does not necessarily constitute a disclosure of the

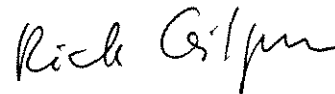
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<sup>3</sup>In his letter to Representative Frost, Mr. Edward Vela, Jr. explains that the United States Office of Personnel Management ("OPM") conducts suitability and security investigations on current or potential federal employees and contractors whose positions have direct impact on national security or public trust. Its investigators are considered authorized law enforcement personnel and are within the protective coverage of Federal criminal law. The OPM is therefore a law enforcement agency for purposes of section 3(a)(8). Cf. Open Records Decision No. 340 (1982) (section 3(a)(8) protects information pertaining to federal criminal investigations). We do not address here, however, whether the OPM's investigations constitute "covert criminal investigations" for purposes of article 6675a-3aa.

identity of the automobiles to which the alias has been assigned. Accordingly, the department may withhold pursuant to section 3(a)(8) only those portions of the requested form that identifies or tends to identify the automobiles registered in the name of "Frank T. Worth." For your convenience, we have marked the portion of the form that you may withhold pursuant to section 3(a)(8). The department must, however, release the remaining information contained in the form.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR93-139.

Yours very truly,



Rick Gilpin  
Assistant Attorney General  
Opinion Committee

RG/RWP/le

Ref.: ID# 18367  
ID# 18459  
ID# 18913

Enclosure: Marked documents

cc: Mr. William W. Cammack  
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(w/o enclosure)